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## Pesticides & Toxic Substances Law News for June 5, 2018

**Bloomberg  
Environment**

Environment & Energy

### Highlights

#### LEADING THE NEWS

##### [New Chemical Tests Need More Industry, Regulator Conversations](#)

By Ayanna Alexander

Federal developers of new chemical safety tests that don't use animals need to engage industry representatives and regulators who are in a position to adopt those methods, a federal testing director said.

##### [Chemical Board Closure Threat Found to Repel Job-Seekers: Audit](#)

By Sam Pearson

The Trump administration's push to eliminate the Chemical Safety Board is preventing the agency from attracting and keeping staff, and board members too often pursue individual agendas in ways that harm morale, the EPA's inspector general found June 4.

#### TODAY'S NEWS

##### [DowDupont Seed Boss Bets on DNA Edits, Big Data as Spinoff Nears](#)

By Jack Kaskey

Deep inside Corteva Agriscience's Midwest laboratories, the food of the future is taking shape.

## [EPA Aide Helped Pruitt Arrange Trips, Find Housing, Buy Mattress \(1\)](#)

By Jennifer A. Dlouhy and Billy House

A top EPA aide helped agency chief Scott Pruitt try to buy a used mattress from the Trump International Hotel, one of several personal tasks she conducted for the administrator whose sleeping arrangements have already prompted investigations.

## [Man's Negligence Claims Over Wife's Moldy Home Purchase OK](#)

By Peter Hayes

The husband of a woman who bought a home contaminated with toxic mold may pursue negligence claims against the seller, a California appeals court said.

## **FRIDAY NIGHT WRAPUP**

### [Some Chemical Uses Ignored in EPA Risk Plans \(Corrected\)](#)

By Pat Rizzuto

The EPA will disregard certain ways people could be exposed to chemicals if air, water, food, or other laws already apply to those exposures.

## [Worker Risks Feared as EPA Asbestos Probe Excludes Past Uses](#)

By Sam Pearson and Adam Allington

The Environmental Protection Agency's evaluation of asbestos' risks will move forward without examining exposures to the mineral that are still in buildings, a decision opposed by labor unions, advocacy groups, and Democratic lawmakers.



## **Redefining EPA**

Overhauling an agency and its mission

<https://insideepa.com/agency-at-a-crossroads>

Inside EPA's **Risk Policy Report**, 06/05/2018

<https://insideepa.com/newsletters/risk-policy-report>

## **TSCA Tracker**

<http://insideepa.com/specials/tsca-tracker>

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## **Latest News**

### **Eying 2018 Deadline, EPA Taps New Division Heads For Reorganized OPPT**

Leaders of EPA's toxics office have selected many of the new division directors for the office's planned overhaul and are proceeding with additional management selections as part of a plan to complete the reorganization -- which aims to better implement the revised Toxic Substances Control Act (TSCA) -- by year's end.

## Daily Feed

### [CBD seeks 'disciplinary action' to limit EPA's FOIA denials](#)

The suit seeks to require the government ethics watchdog determine whether disciplinary action is required against government employees.

### [House Democrats seek subpoena on Pruitt ethics documents](#)

The lawmakers provide new details of a Pruitt scheduler's efforts to secure rental housing for him, obtain an "old mattress" for him from the Trump International Hotel and book personal travel for him.

Greenwire



AN E&E NEWS PUBLICATION

## EPA

### **Pruitt wanted 'old mattress' from Trump Hotel — aide**

[Kevin Bogardus](#), E&E News reporter

Published: Monday, June 4, 2018



EPA headquarters can be seen past a sign at Trump International Hotel in Washington. Hannah Northey/E&E News

Democrats on the House Oversight and Government Reform Committee released excerpts today of an interview with a top aide to Administrator Scott Pruitt, shedding more light on her housing search on behalf of the embattled EPA chief.

In a [letter](#) to Chairman Trey Gowdy (R-S.C.), ranking member Elijah Cummings (D-Md.) and Rep. Gerry Connolly (D-Va.) said EPA's Millan Hupp confirmed allegations she helped find a new apartment for Pruitt while revealing "significant new details" on the personal tasks she did for Pruitt, including using his credit card to book his personal flights and trying to secure a used mattress from the Trump International Hotel in Washington.

"If Ms. Hupp's statements to the Committee are accurate, Administrator Pruitt crossed a very clear line and must be held accountable," the lawmakers said. "Federal ethics laws prohibit Administrator Pruitt from using his official position for personal gain and from requesting and accepting services from a subordinate employee that are not part of that employee's official duties."

Last month, Hupp sat for a transcribed interview with committee staff as part of the panel's investigation

into Pruitt's EPA. The administrator's pricey travel, expansive security and other ethics missteps have come under scrutiny from the committee as well as other investigators, including the EPA inspector general.



Millan Hupp. Hupp/LinkedIn

In excerpts released by the Democrats, Hupp was asked about an email she sent to the Trump Hotel. She said she didn't remember sending the email but did note there had been talks about getting a used mattress.

"I do not recall sending this email, but I do recall there being discussions about the possibility of securing an old mattress from the Trump Hotel," Hupp said.

She added Pruitt wanted to buy a used mattress from the hotel but couldn't say whether he made the purchase.

Hupp also told staff she helped Pruitt book his personal travel using the administrator's own credit card, including a trip to the Rose Bowl.

The EPA aide said she considered Pruitt a friend — Hupp had also worked for Pruitt as a campaign aide in Oklahoma. In addition, she told committee staff that she had visited "probably more than 10" locations to help find Pruitt new housing in Washington in a search that took a couple of months.

Cummings and Connolly requested that Gowdy issue a subpoena on documents dealing with Hupp's housing search, which was originally requested in an April 12 [letter](#) sent to Pruitt by Democrats. They noted Gowdy's previous document requests have asked for this information.

A spokeswoman for Gowdy and the committee said the panel is moving forward with its EPA investigation. Its staff is expected to interview EPA Chief of Staff Ryan Jackson and Samantha Dravis, Pruitt's former policy chief, later this month ([Greenwire](#), June 1).

"To date, the Committee has conducted several transcribed interviews and obtained 2,350 pages of documents as part of our investigation into mismanagement and spending at the EPA," the spokeswoman said in a statement. "This month, the Committee will interview additional witnesses and receive additional document productions."

She also warned that releasing excerpts of witness interviews could damage the investigation.

"Selectively releasing portions of witness interview transcripts damages the credibility of our investigation and discourages future witnesses from coming forward. The Committee will continue conducting a serious, fact-driven investigation, and therefore will wait until the conclusion of our investigation to release our findings," the spokeswoman said.

Hupp's housing search on Pruitt's behalf has come under more scrutiny recently.

Last week, Democratic senators requested that the EPA inspector general investigate the matter. They released emails showing Hupp had used her EPA email address to contact a real estate agent during work hours ([Greenwire](#), May 31).

Pruitt has said Hupp's help in finding him housing happened on her own time.

An EPA spokesman said the agency is cooperating with the committee's investigation.

"We are working diligently with Chairman Gowdy and are in full cooperation in providing the Committee with the necessary documents, travel vouchers, receipts and witnesses to his inquiries," said EPA spokesman Jahan Wilcox.

## EPA



## Lobbyist tied to Pruitt's condo represented more clients

[Kevin Bogardus](#), E&E News reporter

Published: Monday, June 4, 2018



EPA Administrator Scott Pruitt rented this Capitol Hill condominium from the wife of a lobbyist whose clients lobbied EPA. Kevin Bogardus/E&E News

A lobbyist tied to a Capitol Hill condo that EPA Administrator Scott Pruitt rented part of last year had business with the agency on behalf of at least three clients.

Steven Hart, the former chairman of Williams & Jensen PLLC, had over the past year represented Smithfield Foods Inc., Coca-Cola Co., and the Financial Oversight and Management Board for Puerto Rico before EPA, according to several amended lobbying disclosure reports filed by the firm Friday. In March, news broke that Pruitt had rented a condo from Hart's wife for \$50 a night for part of 2017, with the subsequent controversy attracting scrutiny from lawmakers and the EPA inspector general.



Steven Hart. Williams & Jensen PLLC

Hart at that time said he didn't lobby the agency. Pruitt, too, has said Hart didn't lobby EPA.

"Steve Hart is someone that was not registered as a lobbyist in 2017. He's a longtime associate and friend," said the EPA chief at a Senate hearing last month.

The new disclosure forms, first [reported](#) on by *The Hill*, show that Hart was involved with several clients with business before EPA throughout 2017.

One [report](#) lists Hart as lobbying EPA on behalf of Coca-Cola, advocating on issues like clean water and water conservation.

Emails released to the Sierra Club under the Freedom of Information Act show that Hart contacted Sydney Hupp, a scheduler for Pruitt, as well as EPA Chief of Staff Ryan Jackson to set up a meeting between the administrator and Muhtar Kent, chairman and then CEO of the beverage giant, as well as

Jon Radtke, who handles water sustainability in North America for Coca-Cola.

"Basically, if Scot [sic] was going to the awards ceremony, Muhtar was going to pull aside and offer to help you on your water projects," Hart said in the [email](#).

"Coke has enormous expertise in clean water development since you cannot bottle Coke with dirty water," he said.

An agency spokesman said the meeting requested by Hart didn't happen.

"This meeting involving Coca-Cola and their clean water steward did not occur. The request was submitted and it went unfilled," said EPA spokesman Jahan Wilcox.

Another amended [form](#) shows Hart lobbying EPA on behalf of the Puerto Rico board, concerning water quality and infrastructure after the devastation wrought by Hurricane Maria.

The firm also filed changed [reports](#) that capture Hart's work on behalf of Smithfield Foods, including an official from the company's foundation looking to support EPA's Chesapeake Bay programs. Hart also passed on suggestions from that official to EPA on who could sit on its Science Advisory Board ([Greenwire](#), May 2).

In addition, Hart had met with Pruitt alongside the Smithfield Foundation official in July last year. Hart helped set up that meeting with the EPA chief ([E&E Daily](#), April 23).

A Williams & Jensen spokesman said in a statement that after Hart's contact with EPA was disclosed, the firm decided to audit its lobbying disclosure reports with outside counsel, which led to the amended forms.

"Following the completion of that review and the advice of counsel, today the firm filed amendments to several disclosure reports that include information that was not previously disclosed to our firm and therefore not included in the original filings. No Williams & Jensen client is in any way responsible for the incompleteness of our original filings," said the spokesman.

A spokesman for Hart told E&E News that Hart disagreed that the work related to EPA constituted lobbying but declined to comment further.

## **APPROPRIATIONS**

### **Committee to vote on Interior-EPA bill**

[Manuel Quiñones](#), E&E News reporter

Published: Monday, June 4, 2018

The House Appropriations Committee plans to vote this week on one of the most contentious spending measures of the year: legislation to fund EPA and the Interior Department.

The panel was supposed to have marked up the bill before the Memorial Day recess but postponed consideration until Wednesday morning.

The House Interior and Environment Appropriations Subcommittee approved the legislation in May. The measure was largely bipartisan, but Democrats grumbled about some riders and promised to pursue amendments ([E&E Daily](#), May 16).

Separately, the House defense spending bill will come up in subcommittee later this week, the panel said today.

It's a busy week for appropriators in both chambers. The full House is considering its energy and water bill, and the Senate Appropriations Committee will release its transportation proposal ([E&E Daily](#), June 4).

**Schedule:** The Interior-EPA markup is Wednesday, June 6, at 11 a.m. in 2167 Rayburn.

## **SUPERFUND**

### **Court won't revive suit over listing of Colo. mining district**

[Amanda Reilly](#), E&E News reporter

Published: Monday, June 4, 2018



The Animas River between Silverton and Durango, Colo., turned orange within 24 hours of the 2015 Gold King mine wastewater spill. Riverhugger/Wikipedia

A federal court in Washington, D.C., won't reconsider a recent ruling upholding EPA's decision to place a Colorado mining district on a list of the nation's most hazardous sites.

The U.S. Court of Appeals for the District of Columbia Circuit today denied motions to rehear the case, both in front of a three-judge panel and the full court.

EPA added the 100,000-acre Bonita Peak Mining District to the Superfund National Priorities List in 2016. The district includes the abandoned Gold King mine, where agency contractors in 2015 accidentally triggered a rupture that sent 3 million gallons of toxin-laced water into the Animas and San Juan rivers. Sunnyside Gold Corp., which operates a mine that's connected to Gold King via a tunnel, challenged the listing. The company argued that it was illegal because the agency hadn't explicitly scored all the mining sources within the area under the hazard ranking system.

But a three-judge panel of the D.C. Circuit in March ruled that EPA had adequately scored the site ([Greenwire](#), March 6).

No judge on the court requested a vote on Sunnyside's petition to rehear the case.

While it has upheld the Bonita Peak Mining District listing, the D.C. Circuit recently threw out EPA's decision to list a contaminated Indiana site on the National Priorities List ([Greenwire](#), May 23).

## **SUPERFUND**

### **N.J. won't seek expedited cleanup for former DuPont site**

Published: Monday, June 4, 2018

The administration of New Jersey Gov. Phil Murphy (D) does not want Superfund status for a contaminated former DuPont Co. munitions site, a disappointment for nearby residents.

"I don't see any advantage in Superfund," Catherine McCabe, acting commissioner of the state Department of Environmental Protection, said last week in an interview. The site "would receive the same level of remediation. There's no need to involve Superfund — there's a polluter who is paying for cleanup."

The Chemours Co., a DuPont spinoff, has inherited the site. It has installed mitigation systems in homes affected by a plume of cancer-causing solvents perchloroethylene (PCE) and trichloroethylene (TCE) that has migrated away from the site.

Some of the plume is also breaking down slowly through natural processes, McCabe said.

"It looks to me, based on the scientific information we have, that the plume is being cleaned up," McCabe said. "As with any natural process, this takes time, but the people living above the plume are protected by the vapor mitigation systems on their homes."

But those comments disappointed residents who had lobbied former Gov. Chris Christie (R) for years to make the site open for a Superfund listing.



The council for Pompton Lakes, the town near the site, has opposed a listing, but many locals have advocated for one. A Superfund designation could make it more difficult for Chemours to challenge the cleanup plan, according to EPA emails obtained by the Bergen *Record*.

"I'm upset because Murphy said he'd look into this, and it just seems like this is the same old pattern," said Regina Sisco, executive director of a Pompton Lakes resident advocacy group. "We state our case and people are shocked, but then they all back off. They hear DuPont and back off. I don't know what that company has, but it has a big hold on a lot of people, and it's very political" (James O'Neill, [Bergen \[N.J.\] Record](#), June 3). — NS

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